

SHER TREMONTE LLP

April 13, 2018

BY ECF

The Honorable Ronnie Abrams
United States District Judge
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v. Galanis et al.*, 16-cr-371 (RA)

Dear Judge Abrams:

We write in anticipation of today's conference in order to update the Court on the status of our efforts to ensure that our client, Mr. Hirst, is able to prepare for trial while incarcerated at the Metropolitan Correctional Center (MCC). The government has been responsive to our concerns and has made efforts to improve the situation. Despite those efforts, Mr. Hirst still cannot access the discovery materials in this case, and therefore still cannot meaningfully participate in his own defense in this case.

Since our initial letter to this Court of April 4, 2018, detailing the adverse conditions at the MCC preventing Mr. Hirst from reviewing discovery materials in preparation for trial, we have been in frequent contact with the government on this issue. For the Court's reference, we attach our correspondence with the government as Exhibit A.

In response to our April 4 letter, the government immediately reached out to the MCC and requested it provide Mr. Hirst with access to the attorney visiting rooms on the weekends, and, if possible, in the evenings, so that he could review discovery in a location other than the housing unit, where the location of the computer in public space makes it impossible to review discovery for any sustained period of time. *See Gov't Letter*, dated Apr. 5, 2018, ECF No. 378, at 3.

We visited Mr. Hirst the following weekend, on Saturday April 7 and again on Monday April 9, and he informed us that, despite his requests, the MCC has failed to facilitate his review of the trial material in the attorney visiting rooms. We immediately informed the government of this issue and asked that it take the appropriate steps in order to reach a speedy resolution and allow Mr. Hirst to adequately prepare for trial. In addition, we informed the government that the correctional officers at the MCC had destroyed the cardboard box in which Mr. Hirst kept his hard copy of the discovery

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materials, and he had no way to contain or organize the stacks of paper we had provided him.

The government responded that it had again reached out to the MCC, and been assured that all of the lieutenants in the facility had been notified that Mr. Hirst is permitted weekend access to the attorney visiting rooms, and that he would not be denied such access again. In order to make up for the missed time over the weekend, the government also assured us that efforts were being made to give Mr. Hirst access to the attorney rooms in the evening. The government also ensured us that it would inquire as to whether it could provide Mr. Hirst a new box in which to store his material.¹ Lastly, the government indicated that a hard drive with the remaining discovery was in the process of being burned and would soon be provided to Mr. Hirst. The following day, Tuesday April 13, the government emailed us indicating that it had dropped off the hard drive at the MCC earlier that day.

Since that time, Mr. Hirst has yet to obtain access to the hard drive containing the discovery. He has also asked for access to the attorney visiting rooms during the evenings in order to review his trial preparation materials, but has not been given access. Finally, Mr. Hirst reports that he is unable to use the computer in the housing unit because it is constantly being used by other detainees to view pornography.²

Thus, while the government has made laudable efforts in attempting to secure Mr. Hirst access to trial materials, the MCC has been slow to respond to those efforts. We are confident that with additional time and the government's continued cooperation, we will be able to provide Mr. Hirst with the materials he needs in the next few weeks. However, with just over two weeks until trial, Mr. Hirst remains unable to review the exhibits, 3500 material, or discovery in this case and thus he is not currently able to participate in his own defense.

We appreciate the Court's consideration and look forward to addressing this issue with Your Honor at the conference later today.

Respectfully submitted,

/s/ _____
Michael Tremonte

¹ To our knowledge, Mr. Hirst has not been provided with a box in which to store his material.

² Mr. Hirst also attempted to use the law library this past Tuesday, April 10, during his unit's weekly law library visit. However, only fifteen inmates are allowed in the law library at a time, and Mr. Hirst was number twenty on the sign-up list. He was therefore unable to use the law library until the last hour of available time. Once he did gain entry to the library, there was a significant wait to use one of the three computers and he was therefore unable to view his electronic materials during that time.

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